**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE KURIAN JOSEPH**

**FRIDAY, THE 13TH JULY 2007 / 22ND ASHADHA 1929**

**WP(C).No. 691 of 2004(G)**
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**PETITIONER:**
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**P.BHASKARAN,**
**SENIOR INSTRUCTOR, GOVERNMENT I.T.I., KANNUR.**

**BY ADV. SRI.M.SASINDRAN**
**SRI.SREEJITH S.NAIR**

**RESPONDENTS:**
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*** 1. THE DIRECTOR OF TRAINING INDUSTRIES**
**DEVELOPMENT DEPARTMENT, THIRUVANANTHAPURAM.**
**(*ADDRESS CORRECTED)***

*** THE DIRECTOR OF EMPLOYMENT AND TRAINING,**
**THIRUVANANTHAPURAM.**
**(THE DESCRIPTION OF THE IST RESPONDENT IS CORRECTED AS PER ORDER DT. 16/01/2004 IN IA NO. 396/2004)**

**2. PRINCIPAL,**
**GOVERNMENT I.T.I., KANNUR.**

**** 3. STATE OF KERALA,**
**REPRESENTED BY SECRETARY TO GOVERNMENT,**
**(DEPARTMENT OF INDUSTRIES) (CORRECTED)**
**GOVT.SECRETARIATE,**
**THIRUVANANTHAPURAM.**

**** DEPARTMENT OF LABOUR**
**(THE DESCRIPTION OF THE 3RD RESPONDENT IS CORRECTED AS PER ORDER DATED 16/1/2004 IN IA NO. 396/004)**

**BY GOVERNMENT PLEADER SMT. K.R.DEEPA**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 13/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**WP(C) NO: 691/2004 G**

**APPENDIX**

**PETITIONER'S EXHIBITS**

**EXT.P1. COPY OF THE ORDER DT. 24/11/97 ISSUED BY THE DIRECTOR OF INDUSTRIES TRAINING DEPARTMENT.**

**EXT.P2. COPY OF THE LETTER ISSUED BY THE DIRECTOR OF PRINCIPALS OF ALL ITI DT. 14/5/98.**

**EXT.P3. COPY OF THE COMMUNICATION DT. 4/6/99.**

**EXT.P4. COPY OF THE ORDER DT. 16/7/03 BY THE DIRECTOR DEPUTING 79 CANDIDATES FOR TRAINING.**

**EXT.P5. COPY OF THE ORDER DT. 24/7/03.**

**EXT.P6. COPY OF THE COVERING LETTER OF THE PRINCIPAL DT. 26/7/03.**

**EXT.P6A. COPY OF THE REPRESENTATION DT. 24/7/03.**

**EXT.P6B. COPY OF THE CERTIFICATE ISSUED BY THE DOCTOR.**

**EXT.P7. COPY OF THE DISCHARGE CARD ISSUED FROM THE DIST. HOSPITAL, KANNUR.**

**EXT.P8. COPY OF THE REPRESENTATION DT. 2/8/03 SEND BY THE PETITIONER TO THE DIRECTOR.**

**EXT.P9. COPY OF THE ORDER DT. 20/10/98 BY THE DIRECTOR.**

**EXT.P10. COPY OF THE ORDER NO. A2. 5323/03(1) DT. 22/12/03.**

**RESPONDENT'S EXHIBITS** **NIL**

*True copy*

*tga*

**KURIAN JOSEPH J.**

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**W.P.(C) No.691 of 2004**

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**Dated 13th July, 2007.**

**J U D G M E N T**

The writ petition is filed mainly with the following prayers :-

> (i) "To issue a writ of certiorari or any other writ order to quash Ext.P10 in so far as it reverts the petitioner and order recovery of the salary paid.
>
> (ii) To declare that an employee who attains the age of 50 years before the culmination of the training course shall not be deputed for training.
>
> (iii) To command the 1st respondent to permit the petitioner to continue in the post of Senior Instructor."

It is the stand taken in the counter affidavit that the petitioner failed to attend the mandatory training for holding the post. According to the petitioner, he was prevented from attending the training on account of ill-health. It is also submitted that he had submitted due applications for exemption from attending the training. It is not discernible from the counter affidavit as to whether the Director had passed any orders on Ext.P6 and P6(a) requests for exemption from attending the CTI training. Unless the same is rejected, it cannot be said that the petitioner failed to attend the training and hence he cannot be continued in the

promoted post. There will be a direction to the first respondent Director to consider Ext.P6, P6(a), P7 and P8 with notice to the petitioner and pass appropriate orders thereon in accordance with law, within a period of two months from the date of production of a copy of the judgment. Depending on the order thus passed by the Director, it will be open to the petitioner to approach the Government for modification of Ext.P10 Government Order regarding reversion and recovery of the emoluments paid to the petitioner in the promoted category. The interim order passed by this Court will continue till such time.

The writ petition is disposed of as above.

**KURIAN JOSEPH, JUDGE.**

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**KURIAN JOSEPH, J.**

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**O.P. NO.  OF  200**

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**J U D G M E N T**

**Dated 13th July, 2007.**